DOCKET FILE COPY ORIGINAL ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Policy and Rules Concerning the Interstate, Interexchange Market	)	
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	CC Docket No. 96-61

REPLY COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice, DA 00-1028, released May 9, 2000, AT&T Corp. ("AT&T") submits this reply to the comments of other parties in this proceeding.[1]

In its opening comments, AT&T requested the Commission to modify the transition period for the detariffing of domestic interexchange services provided by nondominant carriers, including the domestic components of bundled offerings, to terminate upon the later of (i) the expiration of the current nine month period, or (ii) the effective date of a Commission decision to detariff bundled and mass market international offerings. AT&T demonstrated that modifying the transition period to allow for simultaneous detariffing of domestic and international services, whether offered on a bundled or standalone basis, would minimize customer confusion and reduce the costs of moving to a detariffed regime. AT&T also urged the Commission

[1] A list of other parties submitting comments, together with the abbreviations used herein, is attached hereto as Appendix A.

to require compliance with the web posting requirement no sooner than thirty days after the expiration of the transition period.

I. THE TRANSITION PERIOD

Many parties' comments echo (and no party disputes) AT&T's concerns about the customer confusion and increased costs that result from the application of different tariffing rules for domestic and international services.[2] Thus, nearly all parties urge the Commission to synchronize these rules by promptly concluding a proceeding to detariff international services,[3] a position AT&T strongly supports. The principal issues raised in the comments are confined to the tariffing rules that should apply in the interim.

The commenting customers unanimously support detariffing of at least the international component of bundled offerings while the Commission considers whether to extend detariffing to all international services. AT&T agrees that mandatory detariffing of the international components of bundled offerings is preferable to the application, even temporarily, of different tariffing rules for domestic and international services. But as AT&T (pp. 6-7) demonstrated, a permissive detariffing approach to such offerings would maximize the options of carriers and customers, with no countervailing costs.[4]

---

[2] See, e.g., ASCENT, pp. 2-4; CompTel, pp. 3-4; Econobill, p. 2; Sprint, p. 3; WorldCom pp. 4, 17. Although Ad Hoc (pp. 3-4) attributes some of this confusion to carrier misrepresentations and inadequate training, it cites no instances of such conduct, and provides no evidence to support its assertion.

[3] See, e.g., Ad Hoc, pp. 4-5; GSA, pp. 4-5; GTE, p. 4; WorldCom, p. 17.

[4] See also Sprint, p. 3 (noting that permissive tariffing of the domestic components of bundled domestic/international contract service arrangements

(footnote continued on following page)

Some commenters nevertheless object to this limited application of a permissive detariffing regime on two grounds, neither of which has any substance. First, they suggest (Ad Hoc, p. 5) that carrier support for permissive (as opposed to mandatory) detariffing is motivated by a desire to abuse the filed rate doctrine. However, any lingering concern about application of the filed rate doctrine is addressed completely by a statement from the Commission that tariffs are superseded by any inconsistent terms agreed to by the carrier, combined with appropriate language in subsequently filed tariffs that announces the tariff does not contain any binding terms relating to domestic service.[5]

Ad Hoc (p. 6) also claims that during the temporary period when permissive detariffing is in effect, carriers may use their "negotiating leverage" to refuse customer requests to enter into agreements or otherwise tailor service arrangements to meet their individual needs. The short answer is that in the intensively competitive interexchange market, carriers have no "leverage" that they could abuse. Indeed, the

---

(Footnote continued from preceding page)

will provide customers with better information during the time it takes carriers to establish their websites).

[5] The "filed rate" doctrine is codified in Section 203(c) of the Communications Act, which requires carriers to charge and collect only their filed (i.e., tariffed) rates. But that same provision contains an exception "unless otherwise provided by or under authority of [the] Act." By allowing carriers and customers to order their arrangements either through contracts or tariffs, the Commission would be creating an exception to the filed rate doctrine that permitted enforcement of agreements between carriers and customers. See AT&T Ex Parte Presentation, "Permissive Detariffing and the Filed Rate Doctrine," CC Docket No. 96-61, pp. 2-3 (July 17, 1996). See also Sprint, pp. 2-5; AT&T, pp. 4-5.

degree of competition in this market is a necessary predicate for exercise of the Commission's forbearance authority, and was the very reason the Commission decided to adopt a mandatory tariffing policy.[6]

II. THE WEB POSTING REQUIREMENT

Most commenters agree that carriers should not be required to comply with the web posting requirement until at least the date by which they are required to detariff their services. As WorldCom observes, "[p]osting rate, term and condition information on a web site while it is still publicly available via tariffs is plainly unnecessary to advance the Commission's goal of making such information available to the public."[7] Other carriers confirm that they, like AT&T, will need the transition period to complete the development and population of a web site that "contains all necessary information while remaining easy to use and navigate."[8] In contrast, the parties who support acceleration of the web posting requirement[9] present no evidence that the benefits of the accelerated schedule outweigh the costs and other burdens it would impose. Indeed, those parties cite no reason to accelerate the web posting requirement other than a purported "need" for additional information, which the FCC properly found to be addressed by the continued filing of tariffs during the transition

---

6 Second Report and Order, 11 FCC Rcd. 20,730, ¶¶ 21-28, 36-38 (1996).

7 WorldCom, at 6, citing Second Recon. Order, 14 FCC Rcd. 6004, ¶ 19.

8 See, e.g., GTE, p. 5; Sprint, p. 6; WorldCom, p. 5.

9 See Econobill, p. 2; GSA, pp. 6-7.

period. Thus, the Commission should not require carriers to post tariffs on their websites until at least the end of the transition period.

III. OTHER ISSUES

Some parties urge the Commission to adopt an array of additional regulations that would, in their view, promote the disclosure of additional information and protect consumers. These include mandatory regulations that would specify in detail the content of carriers' web sites, and even the frequency and location of their advertisements in other media. These proposals are unnecessary[10] and well beyond the scope of the Notice[11] and should be rejected.

---

[10] AT&T agrees with WorldCom (pp. 11-16) that the Commission's detariffing requirements (1) permit carriers to file tariffs for standard mass market offerings during the transition period and (2) do not affect existing agreements between carriers and customers or afford customers an opportunity to abrogate those agreements. However, AT&T believes that these principles are already firmly established in prior Commission rulings and do not need further explication here.

[11] The request for comments in Notice is specifically limited to the transition period for detariffing and the *timing* of the web posting requirement. Proposals for additional regulations governing carrier advertising and the content of carrier web sites clearly do not address these subjects. In particular, there is no basis to consider NTCA's claim that AT&T offerings are not available in some areas. Moreover, there is also no merit to NTCA's suggestion (p. 3 n.8) that the AT&T "One Rate"® 7¢ Plan is not available for to many customers served by rural telephone companies. That plan and other AT&T offerings are broadly available for enrollment, including in areas served by rural telephone companies. In many of those areas, AT&T relies on the local companies to do its billing, and AT&T has requested these companies to perform the billing for the AT&T One Rate 7¢ Plan. The only reason the plan is not offered in a few of those areas is that the rural telephone companies, whose interests NTCA purports to represent, have not accommodated AT&T's request. See generally, Report and Order, 4 FCC Rcd. at 9577-78 (acknowledging that the Commission has permitted geographic restrictions in contract tariffs because of limitations imposed by "a LEC's billing capabilities").

The Commission's stated objective in requiring detariffing was to promote the "pro-competitive, deregulatory, objectives of the 1996 Act," and "subject carriers to the same incentives and rewards that firms in other competitive markets confront."[12] Indeed, according to the D. C. Circuit Court of Appeals, "the essence of [the Commission's] reasoning" in this docket "was a desire to put the interexchange carriers under the same market conditions as apply to any other nonregulated provider of services in our economy."[13] To say the least, prescribing the nature and content of carrier advertising, as proposed by NTCA, and imposing the detailed regulations governing carrier web sites, as proposed by TMIS, are totaly irreconcilable with the deregulatory objectives of the 1996 Act and the Commission's express purpose in this proceeding. In all events, the Commission has specifically found it "unnecessary to adopt advertising requirements concerning discounts and promotions."[14]

Respectfully submitted,

By: _____

Mark C. Rosenblum
Roy E. Hoffinger
Richard H. Rubin

Its Attorneys
295 N. Maple Avenue, Room 1133M1
Basking Ridge, New Jersey 07920
Phone: 908/221-2631

June 9, 2000

---

12 See, e.g., Second Report and Order, 4 FCC Rcd. 20,730, ¶ 4.

13 MCI WorldCom, Inc. v. FCC, slip op. no. 96-1459, p. 10 (D.C. Cir. April 28, 2000).

14 See Report and Order, CC Docket No. 96-61, 4 FCC Rcd 9564, 9578-79 (1996).

ATTACHMENT A

LIST OF COMMENTERS
CC Docket No. 96-61, DA 00-1028

Ad Hoc Telecommunications Users Committee, ABB Business Services, Inc., BP AMOCO, Dana Corporation, Nestlé USA, Inc., Schneider National Inc., the Securities Industry Association, Target Corporation and US Bancorp ("Ad Hoc")

Association of Communications Enterprises ("ASCENT")

Bell Atlantic Long Distance ("Bell Atlantic Long Distance")

Competitive Telecommunications Association ("CompTel")

Econobill Corporation ("Econobill")

General Services Administration ("GSA")

GTE Services Corporation ("GTE")

National Telephone Cooperative Association ("NTCA")

Sprint Communications Company L.P. ("Sprint")

Telecommunications Management Information Systems Coalition ("TMIS")

WorldCom, Inc. ("WorldCom")

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, hereby certify that on this 9th day of June, 2000, I caused a true copy of the foregoing "Reply Comments of AT&T Corp." to be served by U.S. mail, first class, postage prepaid, on the following parties:

James S. Blaszak, Esq.
Levine, Blaszak, Block & Boothby LLP
2001 L Street, NW, Suite 900
Washington, DC 20036
Attorneys for: Ad Hoc

Charles C. Hunter
Hunter Communications Law Group
1620 I Street, NW, Suite 701
Washington, DC 20006
Attorneys for ASCENT

Edward Shakin
Bell Atlantic Long
Distance Companies
1320 North Court House Rd., 8th Floor
Arlington, VA 22201

Robert J. Aamoth
Todd D. Daubert
Kelley Drye & Warren LLP
1200 19th Street, NW, Suite 500
Washington, DC 20036
Attorneys for CompTel

Carol Ann Bischoff
Executive Vice President
and General Counsel
Competitive Telecommunications Assn.
1900 M Street, NW, Suite 800
Washington, DC 20036

Thomas K. Crowe
Law Offices of Thomas K. Crowe, PC
2300 M Street, NW, Suite 800
Washington, DC 20037
Counsel for Econobill

Nissan Rosenthal, President
Econobill Corporation
1351 East 10th Street
Brooklyn, NY 11230

Michael J. Ettner
Senior Assistant General Counsel
Personal Property Division
General Services Administration
1800 F Street, NW, Room 4002
Washington, DC 20405

Snavely King Majoros
O'Connor & Lee, Inc.
1200 L Street, NW, Suite 410
Washington, DC 20005
Economic Consultants for GSA

Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006
Attorneys for GTE Service Corporation

Robin Blackwood
GTE Service Corporation
6665 North MacArthur Blvd.
Irving, TX 75039

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge
MS HQ-E03j43
P. O. Box 152092
Irving, TX 75015-2092

L. Marie Guillory
Daniel Mitchell
National Telephone
Cooperative Association
4121 Wilson Blvd., 10th Floor
Arlington, VA 22203

Cheryl A. Tritt
Morrison & Foerster, LLP
2000 Pennsylvania Ave., NW, Suite 5500
Washington, DC 20006
Attorneys for TMIS

Leon M. Kestenbaum
Michael B. Fingerhut
Marybeth M. Banks
Sprint Communications Company, LP
401 9th Street, NW, 4th Floor
Washington, DC 20004

Jodie O. Kelley
Jenner & Block
601 13th Street, NW, Suite 1200
Washington, DC 20005
Attorneys for WorldCom, Inc.

Mary L. Brown
WorldCom, Inc.
1801 Pennsylvania Ave., NW
Washington, DC 20006

Ann Marie Abrahamson